

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

**Introduced by Reps. Palmer, Voorhees, Tabor, Milosch, Garfield, Bradstreet, Moolenaar, Emmons, Stahl,
Hummel and Vander Veen**

ENROLLED HOUSE BILL No. 4693

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” (MCL 380.1 to 380.1852) by adding section 1294.

The People of the State of Michigan enact:

Sec. 1294. (1) A school district may apply to the superintendent of public instruction for an educational flexibility and empowerment contract under this section for the school district or for 1 or more schools operated by the school district. An ed-flex contract allows the superintendent of public instruction to waive a provision of this act or of the state school aid act of 1979, or of a rule promulgated under this act or the state school aid act of 1979, designated as part of a performance-based contract with clearly defined and measurable performance goals. A school district also may apply to the superintendent of public instruction for waiver of certain federal requirements, in accordance with federal law allowing federal education waivers to be issued by this state.

(2) If the board of a school district intends to apply for an ed-flex contract, the board shall establish an ed-flex planning committee to work with the board to develop the resolution under subsection (3) and the application under subsection (4). This committee shall include a representative of each of the school district’s collective bargaining units that will be affected by the ed-flex contract.

(3) Before applying for an ed-flex contract, the board of a school district must adopt a resolution indicating the board’s intent to apply for the educational flexibility and empowerment contract. If the contract is not intended to cover the entire school district, the resolution shall specify the schools to be covered. Before adopting the resolution, the board shall hold at least 2 public hearings at which the types of waivers sought and the need for the waivers are explained and public comment is allowed.

(4) A school district shall submit an application for an ed-flex contract to the superintendent of public instruction in the form and manner prescribed by the department. The application shall contain at least all of the following:

(a) A specific listing of the statutes and rules proposed to be waived. If the application is intended to also serve as an application for federal waivers under federal law, the application also shall include a specific listing of the federal statutes and regulations proposed to be waived.

(b) A statement specifying the need for waiver for each statute or rule proposed to be waived, including the purpose and intended results for each waiver.

(c) A description, for each school year and for the overall term of the contract, of the specific measurable goals for improved pupil performance in the school district or school. These goals shall include, but are not limited to, goals for improving MEAP scores.

(d) A description, for each school year and for the overall term of the contract, of the measurements to be used to determine whether the pupil performance goals under subdivision (c) have been met.

(e) An explanation of how the contract and the waivers will assist the school district or school in achieving its specified performance goals.

(f) A fiscal impact statement that estimates how the waiver or waivers may increase or reduce program costs.

(g) If the contract is not intended to cover the entire school district, the specific schools to be covered.

(h) A copy of the board resolution required under subsection (3). If the application is intended to also serve as an application for federal waivers under federal law, the application also shall include an explanation of how the public notice requirements of federal law have been met.

(5) Within 60 days after receiving an application under subsection (4), the superintendent of public instruction shall approve or disapprove the application and notify the school district of the decision. If the superintendent of public instruction approves the application, the superintendent of public instruction shall promptly enter into an ed-flex contract with the school district. If the superintendent of public instruction disapproves the application, the notification to the school district shall include notice of the specific reasons for the disapproval, and the school district may submit a revised application. If the superintendent of public instruction does not act on an application and notify the school district of his or her decision within the time limits required under this subsection, the application is considered approved and the superintendent of public instruction shall promptly enter into the proposed ed-flex contract with the school district.

(6) The superintendent of public instruction shall not approve an application submitted under subsection (4) unless he or she finds all of the following:

(a) That the performance goals contained in the application are sufficiently specific and will, if met, constitute improved pupil achievement.

(b) That the contract will allow the school district to enhance learning and to operate in a more effective, efficient, or economical manner.

(c) That the district has exhibited financial responsibility during the preceding 3 fiscal years, as determined by the superintendent of public instruction. This does not preclude the approval of an educational flexibility and empowerment contract for a school district in current financial hardship, so long as the hardship is not due to financial irresponsibility as determined by the superintendent of public instruction.

(d) That the contract will not result in the diminution of wages, hours, or other terms and conditions of employment for employees or collective bargaining units of the school district.

(7) In approving applications submitted under subsection (4), the superintendent of public instruction shall give priority to applications that are focused on reducing pupil achievement gaps based on race, gender, and socioeconomic status.

(8) The department shall prescribe the form of an ed-flex contract. The contract shall include at least all of the following:

(a) All matters addressed in the application.

(b) Assurance that the school district will report its annual progress toward its performance goals.

(c) An agreement that, in order for the contract to be renewed, the MEAP scores for the school district or school must demonstrate adequate annual progress toward meeting the performance goals and must attain a specific measurable benchmark by the end of the contract.

(d) An agreement on the contents of the empowerment report to be filed by the school district at the end of the contract term. The empowerment report shall summarize the performance goals achieved during the term of the contract and the programs, curriculum, or other innovative approaches used to achieve these goals.

(e) The term of the contract, which shall not exceed 5 years.

(9) The superintendent of public instruction may terminate an ed-flex contract for a school before the end of its term if the superintendent of public instruction determines that the school has experienced 2 consecutive years of declining pupil performance, based on the performance goals and measurements set in the contract, or that the school

has failed for 2 consecutive years to meet the adequate yearly progress standards of the no child left behind act of 2001, Public Law 107-110, in both mathematics and English language arts at all applicable grade levels for all applicable subgroups. The superintendent of public instruction is not required to terminate an ed-flex contract if he or she determines that the decline or failure is due to exceptional or uncontrollable circumstances.

(10) At the conclusion of the term of an ed-flex contract, the school district shall submit its empowerment report describing how the school district or school met or did not meet the performance goals set forth in the contract. The superintendent of public instruction may renew the ed-flex contract if the performance goals have been met.

(11) The superintendent of public instruction may not waive any of the following as part of an ed-flex contract:

(a) Health and safety requirements.

(b) Statutory teacher certification requirements.

(c) A requirement under part 6a, except waiver of section 503(6) to the extent necessary to allow waiver of another requirement that meets both of the following:

(i) Is imposed under a part of this act other than part 6a.

(ii) Is a requirement that may be waived under this section for a school district that is not a public school academy.

(12) The superintendent of public instruction shall submit an annual report to the legislature on the status of the educational flexibility and empowerment program under this section, including a report on ed-flex contracts issued during the year, and on progress made toward attainment of performance goals.

(13) As the initial educational flexibility and empowerment contracts issued under this section expire, the department shall post information on its website on the educational innovations and best practices used to achieve pupil performance goals under the contracts.

(14) Except as otherwise provided in subsection (11), any provision of this act or the state school aid act of 1979, or of any rule promulgated under this act or the state school aid act of 1979, is subject to waiver under an ed-flex contract.

(15) As used in this section:

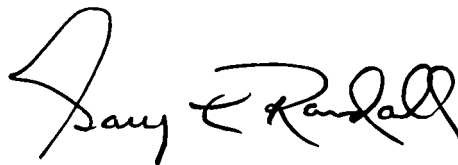
(a) "Ed-flex contract" means an educational flexibility and empowerment contract issued to a school district under this section for the school district or for 1 or more schools operated by the school district.

(b) "Empowerment report" means the final evaluation report required to be filed at the end of the term of an ed-flex contract under subsection (10).

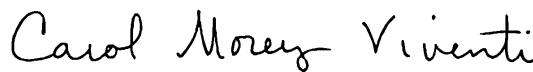
(c) "MEAP scores" means the scores achieved by the pupils of a school district or school, as applicable, on all Michigan educational assessment program tests administered to pupils of the school district or school.

(d) "School district" means either a school district or a public school academy, and "board" means either a school board or the board of directors of a public school academy.

(16) This section shall be known and may be cited as the "educational flexibility and empowerment law".



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor